

- 2: The second species (II-B) is lysine.
- 3: The third species (II-C) is histidine.
- 4: The fourth species (II-D) is arginine.
- 5: The fifth species (II-E) is aspartic acid.
- 6: The sixth species (II-F) is glutamic acid.
- 7: The seventh species (II-G) is threonine.
- 8: The eighth species (II-H) is asparagine.
- 9: The ninth species (II-I) is phenylalanine.
- 10: The tenth species (II-J) is tryptophan.
- 11: The eleventh species (II-K) is leucine.
- 12: The twelfth species (II-L) is isoleucine.
- 13: The thirteenth species (II-M) is valine.
- 14: The fourteenth species (II-N) is alanine.
- 15: The fifteenth species (II-O) is proline.
- 16: The sixteenth species (II-P) is glycine.
- 17: The seventeenth species (II-Q) is serine.
- 18: The eighteenth species (II-R) is glutamine.
- 19: The nineteenth species (II-S) is tyrosine.
- 20: The twentieth species (II-T) is a specific combination of one or more of the above.

The Examiner asserts that each of the above protein or amino acid species corresponds to a different technical feature and therefore constitutes an independent contribution to the art. The Examiner states that claims 1, 22, and 28 exemplify generic claims.

Applicants respectfully traverse the requirement for election of species for proteins, because the generic claims to proteins, especially the three proteins specified by the Examiner as I-A, I-B, and I-C, are allowable. The proteins G-CSF, EPO and PTH are potentially unstable,

physiologically active proteins having methionine groups, and which are stabilized by the present invention. G-CSF and EPO are cytokines, as are colony stimulating factors, generally. For the purposes of this invention, these proteins do not constitute independent contributions to the art. Examination of more than one of what the Examiner has defined as different protein species would not be unduly burdensome.

However, in the interest of furthering prosecution of this case, Applicants elect with traverse the protein species G-CSF (I-A) for examination. Claims 22-30 read on species I-A.

Applicants also respectfully traverse the requirement for election of species for amino acids and argue that generic claims to amino acids or combinations of amino acids are allowable. The claimed amino acids do not constitute independent contributions to the art. Amino acids are not complex or new molecules, and their hydrophobic and polar characteristics, some charged and some not, are known. The number of amino acids claimed is not large, and examination of more than one of what the Examiner has defined as different amino acid species would not be unduly burdensome.

However in the interest of furthering prosecution of this case, Applicants elect with traverse the combination of amino acid species (II-T) for examination, specifically electing a combination of phenylalanine, arginine and methionine. Claims 1-16, 18-21 and 28-30 read on species II-T. In view of the required election, claim 17, which does not encompass the elected combination, is withdrawn without prejudice, pending allowance of generic claims or a decision by the Examiner to examine all claimed amino acids.

Election of these protein and amino acid species is made without waiver of Applicants' right to claim additional species or non-elected species, should the generic claims be allowable. This election is further made without waiver of Applicants' right to file and prosecute claims to the non-elected groups in timely filed divisional applications.

AUTHORIZATION

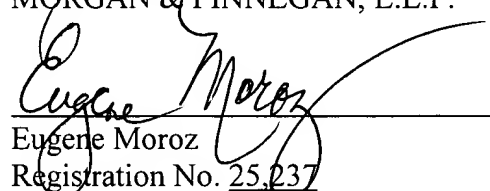
No fee is believed due, as this Response is made within the 1 month shortened period allowed for response.

The Commissioner nevertheless is hereby authorized to charge any additional fees that may be required for the timely consideration of this response under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account No. 13-4500, Order No. 0263-4051. A DUPLICATE COPY of this page is included.

Respectfully submitted,
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Dated: January 6, 2003

By:


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